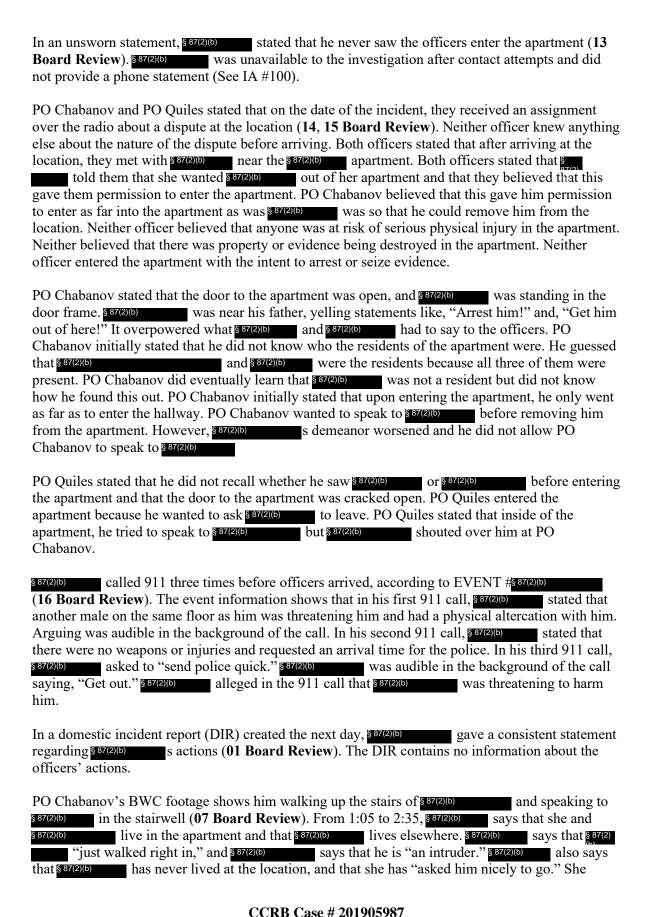
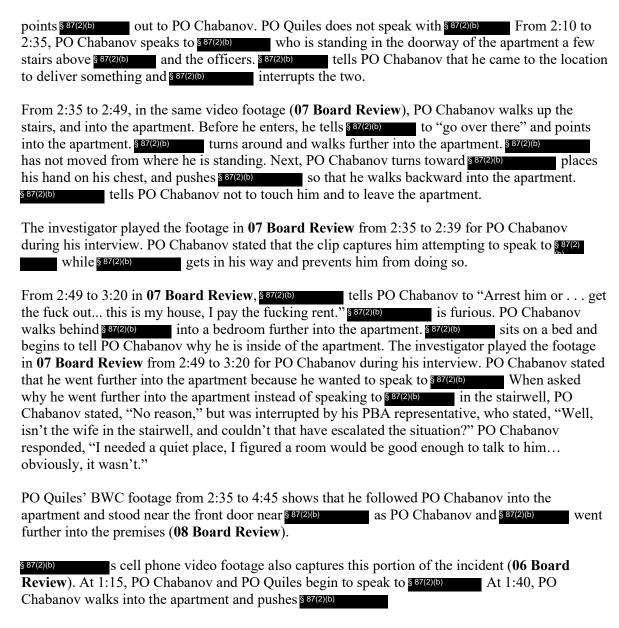
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Ø	Force		Discourt.	☐ U.S.
Zev Carter		Squad #3	201905987		Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:]	Precinct:	18	Mo. SOL	EO SOL
Tuesday, 07/09/2019 10:10 PM		§ 87(2)(b)	§ 87(2)(b)		61		1/9/2021	8/26/2021
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Time	Rec	eived at CCl	RB
Wed, 07/10/2019 12:44 AM		CCRB	On-line website		Wed, 07/1	0/20	19 12:44 AN	М
Complainant/Victim	Type	Home Addr	ess		`			
Witness(es)		Home Addr	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Jorge Quiles	07970	966288	061 PCT					
2. POM Felix Chabanov	30733	953739	061 PCT					
Officer(s)	Allegati	on			Inve	estig	ator Recon	nmendation
A.POM Felix Chabanov	Abuse: Police Officer Felix Chabanov entered § 87(2)(b) in Brooklyn.							
B.POM Jorge Quiles	Abuse: 1	Police Officer Jorge Qui in Brooklyn.	les entered § 87(2)(b)					
C.POM Felix Chabanov	Force: Police Officer Felix Chabanov used physical force against § 87(2)(b)							
D.POM Felix Chabanov	Force: P	olice Officer Felix Chab	panov used physical	forc	e			
E.POM Felix Chabanov	Abuse: 1 § 87(2)(b)	Police Officer Felix Cha	banov threatened to	arre	est			
F.POM Felix Chabanov		Police Officer Felix Charith the use of force.	banov threatened § 87	(2)(b)				
G.POM Jorge Quiles	Force: P	olice Officer Jorge Quil	es used physical for	ce				

Case Summary

On July 09, 2019, \$87(2)(b) filed this complaint with the CCRB online. On July 09, 2019, at approximately 10:10 p.m., §87(2)(b) was inside his home on the § 87(2) floor of §87(2)(b) in Brooklyn, where he lives with his mother §87(2)(b) who is § 87(2)(b) s estranged father and § 87(2)(b) s ex-husband, arrived unannounced and entered the apartment without permission. §87(2)(b) allegedly threatened §87(2)(b) called 911. Police Officer Felix Chabanov and Police Officer Jorge Quiles of the 61st Precinct responded. PO Chabanov and PO Quiles entered the location (Allegations A and B: Abuse of Authority, \$37(2)(9)). PO Chabanov used force against \$37(2)(b) (Allegation C: Force, ; Allegation D: Force, \$87(2)(9)). PO Chabanov threatened to arrest \$87(2)(b) (Allegation E: Abuse of Authority, \$87(2)(9) with the use of force (Allegation F: Abuse of Authority, \$87(2)(9)). PO Quiles used force (Allegation G: Force, § 87(2)(9) summonses were issued during this incident. This case contains cell phone footage provided by \$87(2)(b) (02-06 Board Review) and bodyworn camera (BWC) footage from PO Chabanov and PO Quiles (07-11 Board Review). **Findings and Recommendations** Allegation (A) Abuse of Authority: Police Officer Felix Chabanov entered [877(2)(b) in Brooklyn. Allegation (B) Abuse of Authority: Police Officer Jorge Quiles entered 357(2)(5) in Brooklyn. Allegation (C) Force: Police Officer Felix Chabanov used force against [8] 87(2)(b) It is undisputed that § 87(2)(b) and § 87(2)(b) live at § 87(2)(b) , in Brooklyn. It is undisputed that \$87(2)(b) visited the apartment and called 911 while he was there. As officers arrived, § 87(2)(b) and § 87(2)(b) told them that they wanted § 87(2)(b) the location. § 87(2)(b) and § 87(2)(b) stood near the front door of the apartment with the door open as officers arrived. It is undisputed that PO Chabanov and PO Quiles entered the location. In his sworn statement to the CCRB, \$87(2)(b) stated that on July 09, 2019, at approximately 10:10 p.m., he heard his estranged father \$87(2)(b) s voice inside \$87(2)(b) . In his sworn statement to the CCRB, § 87(2)(b) lives in the apartment with his mother, §37(2)(b) who was also present. For the past five years, \$87(2)(b) has lived at the location "of and on, mostly on." \$87(2)(b) stated that his name and nobody else's is on the lease to the apartment (31 Board Review). Since was unwelcome in the apartment, \$87(2)(b) yelled at his father and told him to leave for 20 to 30 minutes. § 87(2)(b) called 911 about his son's behavior. When PO Chabanov and PO Quiles arrived, §87(2)(b) met the officers on the stair landing before the apartment. She told the officers that \$87(2)(b) was not invited and had no right to be inside the apartment. stood at the threshold of the apartment and \$87(2)(b) stood behind him. The door was said something to the officers about his "so-called son." §87(2)(b) interrupted his father loudly and told his father to refer to him as a "masterful son." PO Chabanov then walked up the last section of stairs before the apartment, crossed over the threshold of the apartment, and pushed § 87(2)(b) very forcefully on the chest and stomach so that he moved into the kitchen. Nobody gave the officers permission to enter the apartment and they did not ask permission to do so.



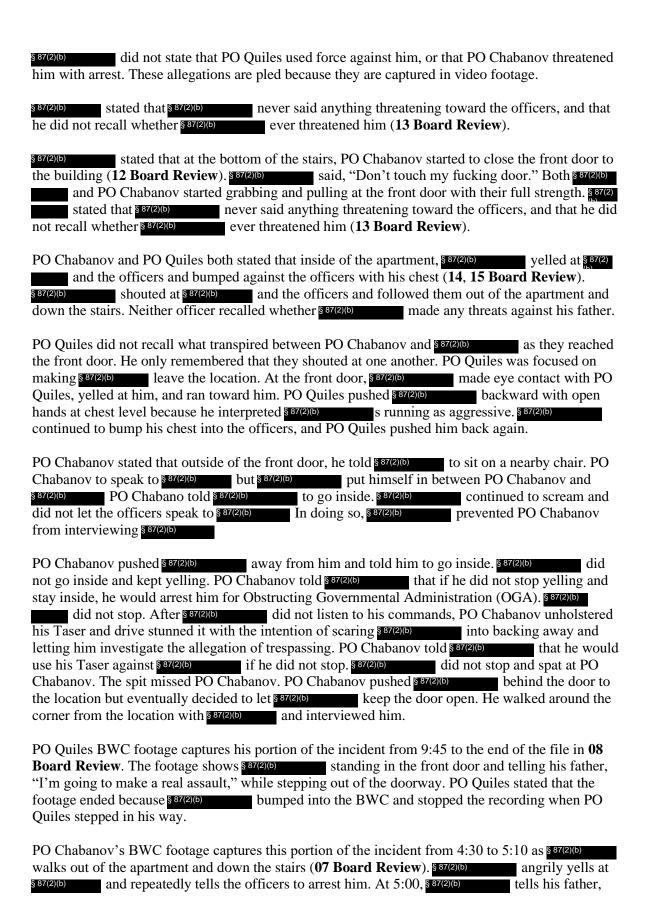


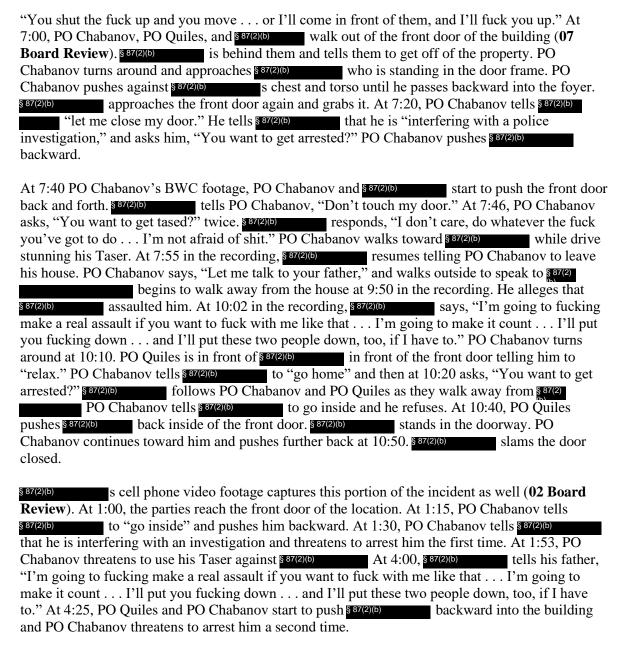
"Searches and seizures inside a home without a warrant are presumptively unreasonable," (Payton v. New York, 445 U.S. 573) (17 Board Review). "Consent [to enter a premises] can be established by conduct as well as words," (People v. Satornino, 153 A.D.2d 595) (18 Board Review). For example, courts in other federal districts have found that when an individual requests that police officers assist them by doing something officers cannot do without entering a premises (such as retrieving personal property inside of a home), the individual will have implicitly consented to the officers' entry. (United States v. Donlin, 982 F.2d 31 (1st Cir. 1992) (19 Board Review); United States v. Gilbert, 774 F.2d 962 (9th Cir. 1985) (20 Board Review). An invitation to enter a home for the purposes of conversation, although, "cannot reasonably be construed as a broad consent for the police to wander at will throughout the entire dwelling," (People v. Flores, 181 A.D.2d 570) (21 Board Review). An officer may rely on an individual's consent for officers to enter a premises when that individual has apparent authority to consent. Apparent authority is established when an officer has an objectively reasonable belief that an individual has control over a premises. An individual may have apparent authority when they have access to the area searched and a substantial interest in the area. "Even if a third party lacks actual authority to consent to a search of

a particular area, he still may have apparent authority to consent to the search." (Moore v. Andreno, 505 F.3d 203) (28 Board review). When police officers have permission of one occupant of a dwelling to enter the location and a second occupant refuses to allow officers access, the refusing party will prevail and officers may not enter (Georgia v. Randolph, 547 U.S. 103 (2006)) (29 Board Review).

NYPD Patrol Guide Procedure 221-02 states that officers are to "use only the reasonable force necessary to gain control or custody of a subject" (22 Board Review). The following factors, among others, are considered when determining whether the use of force is proper: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; the immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; whether the subject is actively resisting custody; the number of subjects in comparison to the number of officers; the size, age, and condition of the subject in comparison to officers; the subject's violent history (if known); and the presence of a hostile crowd or agitators.

§ 87(2)(g)
§ 87(2)(g)
Allegation (D) Force: Police Officer Felix Chabanov used force against §87(2)(b)
Allegation (E) Abuse of Authority: Police Officer Felix Chabanov threatened to arrest §87(2)(b)
Allegation (F) Abuse of Authority: Police Officer Felix Chabanov threatened § 87(2)(b)
with the use of force.
Allegation (G) Force: Police Officer Jorge Quiles used force against SE7(2)(b)
The following facts are undisputed: after the officers entered the apartment, they left with [87/2]
and walked down the stairs of the building. §87(2)(b) followed §87(2)(b) and the
officers. At the front door of the building, PO Chabanov and PO Quiles pushed \$87(2)(6)
backward into the building multiple times. PO Chabanov threatened to arrest and use his Taser
against § 87(2)(b)





No threat resistance and injury (TRI) reports were prepared for this incident.

"A person is guilty of obstructing governmental administration (OGA) when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, town, village, fire district or emergency medical service." (New York State Penal Law § 195.50) (23 Board Review).

A person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person, he or she "strikes, shoves, kicks or otherwise subjects such other person to physical

contact, or attempts or threatens to do the same." (New York State Penal Law § 240.26) (**24 Board Review**).

NYPD Patrol Guide Procedure 221-02 states that officers are to "use only the reasonable force necessary to gain control or custody of a subject" (22 Board Review). The following factors, among others, are considered when determining whether the use of force is proper: the nature and severity of the circumstances; actions taken by the subject; duration of the action; the immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; whether the subject is actively resisting custody; the number of subjects in comparison to the number of officers; the size, age, and condition of the subject in comparison to officers; the subject's violent history (if known); and the presence of a hostile crowd or agitators.

NYPD Patrol Guide Procedure 221-08 states that the same factors listed in Procedure 221-02 determine the propriety of using Conducted Electrical Weapons (CEW), or Tasers (25 Board Review). "A CEW should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. It will often reduce the potential for injuries to members and suspects that may result from physical restraint and should be regarded as a possible alternative to such force and restraint." Active aggression is defined as a "threat or overt act of assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent."

§ 87(2)(g)	
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	Civilian and Officer CCDD Historia
	Civilian and Officer CCRB Histories
§ 87(2)(b)	

- \$87(2)(b) has been party to two CCRB complaints and no allegations (27 Board Review).
- PO Chabanov has been a member of service for seven years and has been a subject in five cases and 13 allegations, none of which were substantiated. [887(2)(9)]
- PO Quiles has been a member of service for one year and this is the first complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- declined to mediate this complaint.
- According to the NYC Office of the Comptroller, \$87(2)(b) filed a Notice of Claim for \$100,000 claiming breach of civil rights, false imprisonment, negligence, assault and battery, discrimination, and negligent hiring (28 Board Review).
- According to the New York State Office of Court Administration, \$87(2)(b) and and have no history of criminal conviction in New York City (29, 31 Board Review).

Squad No.:	3		
Investigator:	Zev Carter Signature	Investigator Zev Carter Print Title & Name	07/06/2020 Date
Squad Leader: _	Olga Golub Signature	SL Olga Golub Print Title & Name	07/06/2020 Date
Reviewer:	Signature	Print Title & Name	 Date